

# **Abstract**

## **Self-Dealing within a Joint-Stock Company and a Limited Liability Company**

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The main aim of this thesis is to analyze the regulation of self-dealing in Czech law with a brief regard to theoretical fundamentals that influence the legal approach to such regulation and further to compare it with Slovak regulation of self-dealing and the future regulation of self-dealing after the recodification of private law in the Czech Republic. The regulation of self-dealing is provided for in section 196a of the Commercial Code. This highly controversial provision causes many interpretation difficulties and strongly influences the legal certainty of entrepreneurs and non-entrepreneurs in the Czech Republic. As I mention in the introduction of this thesis, the legislator incorporated this provision into the Commercial Code due to negative experience of Czech society with so-called tunneling after the change of regime to capitalistic and with an intent to regulate transactions with conflicts of interests, in particular transactions carried out between a corporation and related persons.

The second chapter briefly describes the agency problems, meaning the conflicts arising among particular persons involved in a corporation, problems of which are the theoretical foundation of self-dealing regulations.

The core of this thesis forms the third chapter, which analyzes in detail the provisions of section 196a with regard to its personal and subject-matter sphere of action and the duties laid down in this section. It is systematically divided into a short introduction, which examines the development of section 196a and analyzes its purpose in Czech law and applicability to the particular forms of corporation, and following three sub-chapters, which deal with the three logical units contained in section 196a. The first represents the regulation of transactions carried out with a conflict of interest between a corporation and a person authorized to act on its behalf. The second represents the protection of property of a corporation from the opportunistic behavior of its shareholders and related parties, which has its foundation in the transposition of the rule prohibiting the circumvention of the evaluation of contributions in kind into corporations, provided for in the Second directive of the European Union. The third represents the protection of rights of third parties acting in good faith from the negative consequences of section 196a.

The fourth chapter compares the Czech regulation of self-dealing with the Slovak one. As I point out in this chapter, the Slovak regulation is much similar to the Czech one, although it differs in some ways. The fifth chapter compares the current regulation with the future regulation, which will come into effect along with the recodification of private law in the Czech Republic and is in many ways more liberal than the current one.

The conclusion summarizes the role of section 196a in Czech law and briefly reflects the approach of the current legislation to the regulation of the problem at-hand with respect to theoretical requirements on an appropriate regulation of self-dealing and so does also regarding to the future regulation, pros and cons of which shortly compares to the current one. It also includes some of my reflections on the role of this regulation in the Czech society.